



ACA Update

Conference Forum 2016



General Board

Pension and Health Benefits

Caring For Those Who Serve

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Agenda

- The Simple ACA*
- **ACA Supreme Court Decision**
- ACA 2016 Outlook
- Exchange Plans (“Health Insurance Marketplace”)
- New Legislation and New Regulations/Guidance
- Employer Shared Responsibility and Reporting
- Conference Strategies—Considerations

* ACA: Affordable Care Act (Patient Protection and Affordable Care Act, PPACA)

**ACA—
Working As Expected?**

The Simple ACA



- Health coverage should be **available to all**
- Coverage should be **affordable**
- **Essentials** should be **covered**

Availability

All lawful residents now have coverage available through the public exchanges*

- Not unauthorized aliens
- Fewer uninsured (33 million in 2014)
 - 2013 (4th quarter): 16.2%
 - 2014 (4th quarter): 12.1%
 - 2015 (2nd quarter): 11.4%

* Public exchanges: i.e., Health Insurance Marketplace

ACA Enrollment 2015

Pre-ACA: 47 million lacked health coverage

As of 2014: 33 million lacked health coverage

- **11.7 million** enrolled in public exchanges
 - **2.3 million** young adults stayed on parent plan
-

**10+ million additional uninsured could gain coverage
if their states expand Medicaid**

2015 Premiums in Federal Exchanges

- More than 80% qualified for a PTC* in 2015
- Average PTC covered 72% of premium
- Average net monthly premium paid by those with a PTC: **\$105**

Choice Example

Single mother of two making 200% of FPL**:
Choose “silver” or “bronze” plan?

* PTC: Premium tax credit

** FPL: Federal poverty level

Affordable for All?



- Many pay \$105 or less per month
- **But:** 1 in 10 households at 200-500% FPL spend at least 21% of income on health care
 - Health plan premiums
 - Out-of-pocket expenses

Essentials Should Be Covered

Problem

“Minimum essential coverage” (MEC) is truly **minimum**—avoids the (a) penalty

Example:

“Skinny plan” = MEC

“Minimum value” coverage covers most essential benefits—required to avoid the (b) penalty

Problem—What if employer offers both?

Provider Choice—Not “Essential”

- 41% of provider networks in exchange plans are **extra-small** (less than 10% of physicians) or **small** (25% or less of practicing physicians)
- 39% of hospital networks are **narrow** (less than 70% of hospitals in the area)
- Potential relationship to rate differences in the same exchanges
- Consumers may pick lowest rate

Supreme Court Decision

King v. Burwell—June 25, 2015



- Premium tax credits will remain available in all states
- “Three-legged stool”
- Court interpreted ACA directly (did not decide based on deferential review of IRS decision)

Outlook for 2016

Premiums generally higher

- Exchange policies for silver plans up 7.5% on average (but significantly higher in some areas)

Sign-ups increasing (marginally); uninsured levels down

- Sign-ups in 2015 exceeded 2014
- **Healthcare.gov** reports 8.2 million sign-ups for 2016 (up from 8 million at same time last year)

Outlook for 2016

- Non-discrimination rules
 - (Delayed) rules for insured plans may trigger renewed focus on self-insured plans
- Automatic expansion of SHOP* program in 2016 **cancelled** by recent legislation
 - Now: State option

* SHOP: Small Business Health Options program

Growth of Private Exchanges

- **Enrollment** (Source: Estimates from Accenture report)
 - 2014: 3 million
 - 2015: 6 million
 - 2016: 8 million
- **Drivers**
 - Consumers may pick plans that cost less, saving money for employers
 - Employers can offload administrative burden

Premium Tax Credits

- Exchange plan premiums subsidized with federal assistance:
 - Premium tax credit (PTC)
 - Individuals and families with **household income*** between **100-400%** of federal poverty level (FPL)
- **100% of federal poverty level (2015)**
 - \$11,770 (single)
 - \$24,250 (family of 4)

* Household income = modified adjusted gross income (MAGI)

Coverage Subsidy Gap

States that have not expanded Medicaid have potential gap

Example (Texas)

- Medicaid cut-off for working parent of a dependent child—**25% of FPL**
- Thus, working parents in Texas will not be eligible for Medicaid if their modified adjusted gross income is more than 25% of the FPL (approximately **\$6,062** annually for family of 4)

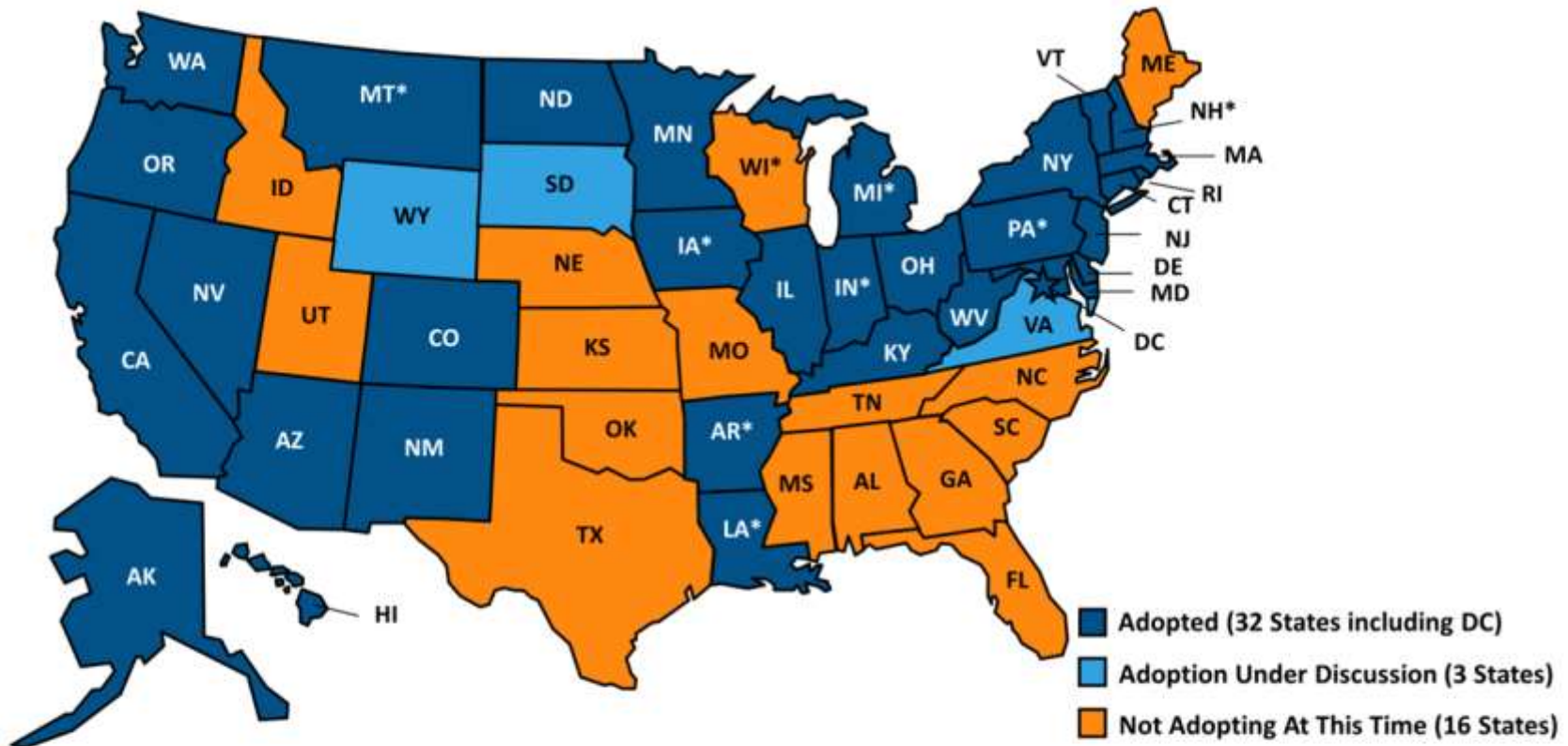
ACA Assumed Medicaid Expansion

ACA assumed that Medicaid would expand as required by statute

- Thus, ACA only provides subsidies for those **between 100% and 400% of FPL**
 - No subsidies are provided for people making less than 100% of FPL
- 2012 Supreme Court decision made Medicaid expansion **voluntary**
 - States not expanding Medicaid have a gap—
Example (Texas): Working parents who make **26%-99% of FPL** have **neither Medicaid nor access to ACA subsidies**

Medicaid Expansion Decisions

Current Status by State—as of January 2016



NOTES: Current status for each state is based on KCMU tracking and analysis of state executive activity. *AR, IA, IN, MI, MT, NH and PA have approved Section 1115 waivers. Coverage under the PA waiver went into effect 1/1/15, but it has transitioned coverage to a state plan amendment. Coverage under the MT waiver went into effect 1/1/2016. LA's Governor Edwards signed an Executive Order to adopt the Medicaid expansion on 1/12/2016, but coverage under the expansion is not yet in effect. WI covers adults up to 100% FPL in Medicaid, but did not adopt the ACA expansion. See source for more information on the states listed as "adoption under discussion."

SOURCE: "Status of State Action on the Medicaid Expansion Decision," KFF State Health Facts, updated January 12, 2016.

<http://kff.org/health-reform/state-indicator/state-activity-around-expanding-medicaid-under-the-affordable-care-act/>

Recent Changes in Law/Regulations

New Legislation

- **Cadillac Tax**—postponed 2 years (2020)
 - President's draft budget proposes change to cost limits
- **Church Plan Clarification Act**—clarified rules on controlled groups for church organizations

New Legislation

- **Church Plan Clarification Act**
 - For organizations otherwise eligible to participate in a church plan, do not treat the organizations as a single employer unless:
 - One organization provides **80% or more of the operating funds** for the other organization, **and**
 - There is **common supervision** such that the organization providing the operating funds is directly involved in the day-to-day operations of the other organization

Church Plan Clarification Act

Exception: Two or more
nonqualified church-controlled organizations
("non-QCCOs")

Are 80% of the directors or trustees
of one such organization representatives of—
or controlled by—another nonqualified
church-controlled organization?

Examples

- “**Steeple**s”—apply general rule to see if church is in same controlled group with a church-controlled organization
- Two or more “**affiliated employers**” (non-QCCOs providing services to general public, with more than 25% of support from sale of the services, or from government)
 - Apply “exception rule”

New Reporting Due Dates for 2016

Statements to individuals— Furnishing <i>Forms 1095-B</i> and <i>1095-C</i>	March 31 (2 months later)
Filing paper returns with IRS— <i>Forms 1094-B</i> and <i>1094-C</i> (and accompanying <i>Forms 1095</i>)	May 31 (3 months later)
Filing electronic returns with IRS— electronic <i>Forms 1094-B</i> and <i>1094-C</i> (and accompanying <i>Forms 1095</i>)	June 30 (3 months later)

Participant Questions

Q: Do I need to attach *Form 1095-B* or *1095-C* to my tax return to prove I had MEC?

A: No (Just check the box on your return)

Q: What if I file my return before I get *Form 1095-B* or *1095-C* and the form conflicts with my answer?

A: No amended return required for 2015

Q: Does a small employer have to send me a *1095-C*?

A: No

New Regulations/Guidance

- Health plan ID requirement—**postponed**
- HIPAA* certifications—**need to include ID**
- HRAs** —ACA generally requires HRAs to be integrated with major medical plan, but family HRA may not be integrated with self-only major medical coverage

* HIPAA: Health Insurance Portability and Accountability Act

** HRA: Health reimbursement arrangement

**Recap—
Reports Due in 2016**

New Reports Due From Providers

Reporting by providers of health coverage (providers of “minimum essential coverage”—MEC)

- Reports to IRS
- Statements to member/primary insured
- **Purpose**—enable IRS to confirm compliance with:
 - Individual mandate (to get MEC)
 - Employer mandate (no liability if employee accepts MEC)
 - Subsidy eligibility (if individual accepts offer of MEC, cannot go to public exchange and get subsidy)

Who Files Provider Report?

- **Insured coverage**—insurance company files
- **Self-insured coverage**—plan sponsor files
- **HealthFlex** will handle reporting on coverage it provides ...

But not:

- Local employer plans not affiliated with HealthFlex
- OneExchange HRAs
(**Note:** Report not required for HRAs that supplement Medicare coverage)

New Reports Due from Large Employers

Reporting by “applicable large employers” (ALEs)

- Report to IRS whether employer offered “minimum essential coverage” (MEC) to full-time employees and dependents
- Send statements disclosing this information to full-time employees
- **Purpose**—allow IRS to confirm whether ALE offered coverage that was **minimum essential coverage** and **affordable** and **minimum value**

Large Employer Reporting

Applicable Large Employer (ALE) Definition

- **50 or more full-time employees** employed on average on business days in preceding calendar year
- **“Full-time employees”** includes full-time equivalents (FTEs)
- **“Full-time equivalent”**—hours of service per month of other employees divided by 120

Entities under “common control” are grouped as one employer (i.e., **controlled group**)

Applicable Large Employer Worksheet under ACA for 2015

Calculation Period:

Enter a period from 6 to 12 months in 2014.

Full-Time Employees (30 or more hours per week on average):

Enter total number of Full-Time Employees (including full-time seasonal) in column 1. Enter number of Seasonal-only Full-Time Employees in column 2. Seasonal workers for this part of the calculator, are those employees who perform labor or services on a seasonal basis as defined by the Department of Labor (DOL), e.g., summer camp staff.

	Total full-time (including seasonal)	Seasonal
January	51	4
February	51	4
March	51	4

	Total full-time (including seasonal)	Seasonal
April	51	4
May	51	
June	51	

	Total full-time (including seasonal)	Seasonal
July		
August		
September		

	Total FTEs (including seasonal)	Seasonal
October		
November		
December		

Proceed to Next Section to enter any part-time or part-time seasonal employees.

Part-Time Employees (less than 30 hours per week on average):

Enter hours worked for Part-Time (including part-time seasonal) employees to Calculate Full-Time Equivalent Employees (FTEs).

If you need additional lines to list your part-time employees, please email healthcarereform@gbophb.org

Employee	January	February	March	April	May	June	July	August	September	October	November	December
How many of your part-time employees are seasonal only?												
Total FTEs	0	0	0	0	0	0	0	0	0	0	0	0
Total FTEs (FTEs + Full-time Employees)	51	51	51	51	51	51	51	0	0	0	0	0

Based on the information you entered, the total FTEs are: 51

Your organization employs 50 or more employees. However your organization may not be subject to the coverage requirements of an Applicable Large Employer until 2016, if certain rules are met. Refer to the "Instructions" tab for more information.

Health Care Reform
web page at:
www.gbophb.org

Between 50 and 100 in 2014?

No penalty for failure to offer coverage in 2015 if:

- Employed **50-99 full-time employees** (including FTEs) in 2014
 - **But:** Penalty for failure to offer coverage in 2016 if you employed 50-99 in **2015**
- **Did not reduce workforce or hours** to avoid ALE status (February 9 – December 31, 2014)
- **Did not materially reduce health coverage**
- File a **certification of qualification for this relief** on *Form 1094-C*—transmittal form for reporting whether employer offered coverage to full-time employees

100 or More in 2014?

- Hopefully, you **offered coverage** (that was **affordable** and **minimum value**) to your full-time employees
 - And offered at least MEC to dependents in 2015
- If not, plan for **PENALTY**
- But—**Margin of Error Rule** for Subsection A
 - Transition relief for 2015

All ALEs

- Whether 50-99 or 100 or more
→ **reports are due in 2016**
- *Form 1095-C*
- Mail one statement to each full-time employee
by **March 31, 2016**
- Mail copies to IRS by **May 31, 2016**—
or file electronically by **June 30, 2016**

Who Must Be Offered Coverage by ALE to Avoid Penalty?

- Only “real” full-time employees (not equivalents)
- Those reasonably expected to work **average of 30 hours or more per week**
- If unsure, employer can “look back” at employee’s history and determine whether to offer coverage

**Did employee work 30 hours per week,
on average?**

Note for 2016 Reporting

Reports due in 2016—based on 2015 plan year

“Good faith” standard will be applied
to errors in reports filed in 2016
(at least if they are filed on time)

Considerations— Non-HealthFlex Conferences

Considerations—Strategy of Ending Conference Coverage and Raising Salaries

Employer Questions	<ul style="list-style-type: none">• Higher salary—less than conference payments for coverage?• Cost of public exchange coverage—affordable?
Employee Questions— Public Exchange Coverage	<ul style="list-style-type: none">• Narrower than conference network?• Available from stable providers?
Both	Will participant choose lowest-cost plan?
Political	Will ACA exchanges exist after November election?
Intangibles	Which plan is more likely to cover a given medical procedure?

ACA FAQ Part XXII

- **Taxable** reimbursements disallowed
 - **Employer Payment Plan (EPP)** that reimburses employee for premiums paid *for individual plan* also **prohibited** (even if treated as taxable income) by ACA Market Reforms
- Paying employees with high claims to waive coverage under employer's health plan—**prohibited** under ACA/HIPAA
- Schemes for reimbursing individual health insurance premiums are group health plans—must comply with health reform law mandates ... even if employer not involved in health coverage selection

“Retiree-Only” Plans

- Group health plans **do not include** plan with “fewer than two current employees”
 - Generally, these are “retiree-only” plans
- Exempt from ACA Market Reforms
 - **Key:** Exempt from annual limits prohibition
 - Caution: Court may not agree

Medicare Exchange HRAS: OK (generally)

www.gbophb.org— Health Care Reform Page

**Detailed guidance on reporting requirements,
including:**

- Controlled group rules for local churches
- Controlled group rules for conferences
- Overview of requirements
- Details for counting employees
- Penalties



General Board

Pension and Health Benefits

Wespath 
Investment Management